

1 RICHARD J. NELSON (State Bar No. 141658)
E-Mail: *rnelson@sideman.com*
2 LOUIS P. FEUCHTBAUM (State Bar No. 219826)
E-Mail: *lfeuchtbaum@sideman.com*
3 ZACHARY J. ALINDER (State Bar No. 209009)
E-Mail: *zalinder@sideman.com*
4 LYNDSEY C. HEATON (State Bar No. 262883)
E-Mail: *lheaton@sideman.com*
5 ALEXANDER J. BUKAC (State Bar No. 305491)
E-Mail: *abukac@sideman.com*
6 SIDEMAN & BANCROFT LLP
One Embarcadero Center, Twenty-Second Floor
7 San Francisco, California 94111-3711
Telephone: (415) 392-1960
8 Facsimile: (415) 392-0827

9 Attorneys for Plaintiffs
CISCO SYSTEMS, INC. and
10 CISCO TECHNOLOGY, INC.

11

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15
16 CISCO SYSTEMS, INC., a Delaware
corporation, and CISCO TECHNOLOGY,
17 INC., a California corporation,

18 Plaintiffs,

19 v.

20 DEXON COMPUTER, INC., a Minnesota
corporation,

21 Defendant.

22
23

AND RELATED CROSS-ACTIONS

24
25 I, RICHARD J. NELSON, hereby declare as follows:

26
27 1. I am an attorney at law, licensed to practice in the State of California. I am a
28 partner at the law firm of Sideman & Bancroft LLP, counsel of record for Plaintiffs Cisco

Case No. 3:20-cv-04926 CRB

**DECLARATION OF RICHARD J.
NELSON IN SUPPORT OF PLAINTIFFS
CISCO SYSTEMS, INC.'S AND CISCO
TECHNOLOGY, INC.'S
SUPPLEMENTAL BRIEF FOR MOTION
FOR PRELIMINARY INJUNCTION**

Judge: Hon. Charles R. Breyer

**REDACTED VERSION OF
DOCUMENT FILED
PROVISIONALLY UNDER SEAL**

1 Systems, Inc. and Cisco Technology, Inc. (together, “Cisco” or “Plaintiffs”) in the above-
 2 captioned matter. The following is based on information and belief after review of documents
 3 Dexon produced in this matter and Cisco’s internal documents, and, where indicated, of my own
 4 personal knowledge, and if called as a witness in this matter, I could and would competently
 5 testify thereto.

6 2. As described in the declaration of Michael Heidecker filed concurrently herewith,
 7 Cisco engineers have examined hundreds of products sold by Dexon that were determined to be
 8 counterfeit. As Dexon has placed “Highly Confidential-Attorneys Eyes Only” restrictions on
 9 information related to its customers and sales data, Cisco engineers do not have access to the
 10 information provided by Dexon that links Dexon and its end customers to certain products that
 11 have been determined to be counterfeit. Cisco requested that Dexon downward designate the
 12 identities of certain customers so that end customer information could be provided to Mr.
 13 Heidecker for purposes of this supplemental briefing and Dexon refused. Owing to that refusal, I,
 14 as outside counsel familiar with Cisco’s business records on these matters and the documents
 15 produced by Dexon, hereby submit the information collected regarding counterfeit “Cisco”-
 16 branded products sold after the date of the Initial Complaint in this matter. The following
 17 descriptions of Dexon’s sales to particular customers is based on information and belief after
 18 review of documents Dexon produced in this matter and marked as Highly Confidential-Attorneys
 19 Eyes Only, and if called as a witness in this matter, I could and would competently testify thereto.
 20 The determinations of counterfeit referenced hereunder were made by Cisco engineers, as
 21 evidenced by the attached exhibits, and are the same types of determinations described in the
 22 concurrently filed declaration of Michael Heidecker.

23 3. On August 27, 2020, Dexon sold two Cisco-branded WS-C9300-24-T-E switches
 24 to the Regional Justice Information System located in St. Louis, Missouri. Cisco engineers
 25 examined these switches and determined them to be counterfeit. Attached hereto as Exhibit 1 is a
 26 copy of the Executive Summary Report (“ESR”) detailing the analysis performed on these
 27 switches to determine their status as counterfeit. The list price for those switches is \$5,031.41
 28 each.

1 4. On November 5, 2020, Dexon sold a C9300-48P-A switch another unauthorized
 2 reseller. That product was eventually sold to the [REDACTED]

3 [REDACTED] The
 4 switch then failed and CBP initiated a service request with Cisco on January 6, 2021. Cisco
 5 engineers examined this switch and determined it to be counterfeit. Attached hereto as Exhibit 2
 6 is a copy of the ESR detailing the analysis performed on this switch to determine its status as
 7 counterfeit. This list price for that switch is \$10,063.21.

8 5. On June 15, 2021, Dexon arranged for SMARTNet coverage for a switch it had
 9 previously sold to end customer [REDACTED]

10 [REDACTED] Cisco provided advanced replacement of the
 11 switch, owing to the SMARTNet coverage, however, Cisco engineers subsequently reviewed
 12 console readout information from that device and determined that the switch was, in fact,
 13 counterfeit. The list price for the product that was replaced is \$40,689. Attached hereto as Exhibit
 14 3 is a copy of the ESR detailing the analysis performed on this switch to determine its status as
 15 counterfeit.

16 6. On August 20, 2021, Dexon sold a Cisco-branded WS-C2960X-48FPD-L switch to
 17 end customer [REDACTED] The list price of that product is \$13,055. Cisco engineers
 18 examined this switch and determined it to be counterfeit. Attached hereto as Exhibit 4 is a copy of
 19 the ESR detailing the analysis performed on this switch (and others sold by Dexon to the
 20 customer) to determine its status as counterfeit.

21 7. In October 2021, Dexon sold two Cisco-branded WS-C2960X-48LPS-L switches
 22 to end customer [REDACTED] The list price of those switches is \$9,136 each. Cisco engineers
 23 examined these switches and determined them to be counterfeit. Attached hereto as Exhibit 5 is a
 24 copy of the ESR detailing the analysis performed on these switches (and others sold by Dexon to
 25 the customer) to determine its status as counterfeit.

26 8. On December 17, 2021, Dexon sold two Cisco-branded QSFP-40G-LR4 modules
 27 in a test buy that Cisco arranged. The list price of these products is \$17,737 each; Dexon sold
 28 these products for only \$595 each. Cisco engineers examined these products and determined them

1 to be counterfeit. Attached hereto as Exhibit 6 is a copy of the ESR detailing the analysis
2 performed on these products to determine their status as counterfeit.

3 9. In August 2022, Dexon sold a Cisco-branded WS-C2960X-48LPS-L switch to end
4 customer [REDACTED] The list price of that product is \$9,136. Cisco engineers examined this
5 switch and determined it to be counterfeit. Attached hereto as Exhibit 7 is a copy of the ESR
6 detailing the analysis performed on this switch to determine its status as counterfeit.

7 10. Further, Dexon produced spreadsheets in discovery that detail the total number of
8 "Cisco"-branded products that it has sold, including the product model numbers and date of sale.
9 During the period of July 22, 2020, to October 13, 2022 (the last date of a sale in the information
10 provided by Dexon), Dexon sold [REDACTED] "Cisco"-branded products. Of those products, [REDACTED]
11 are of the same product and model type as products Dexon sold in the past that turned out to be
12 counterfeit. Below is a chart showing the number of products sold by Dexon since the Initial
13 Complaint in this matter which match the types of counterfeit products Dexon has been found to
14 have sold in the past, broken down by model number, as those model numbers have been
15 identified in the declaration of Michael Heidecker also submitted concurrently herewith:

16 [REDACTED]
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

24 11. Further, Dexon produced documents and spreadsheets showing that one of its
25 vendors for “Cisco”-branded products was Pro Network. Pro Network's owner, Onur Aksoy, was
26 criminally indicted in July 2022 by a federal grand jury for Pro Network's trafficking in a huge
27 quantity of counterfeit “Cisco”-branded networking equipment. Mr. Aksoy entered his guilty plea
28 to the charges last month, and he is awaiting sentencing. See true and correct copy of press release

1 issued by the Department of Justice, dated June 6, 2023, attached as Exhibit 8.

2 12. Cisco obtained a spreadsheet from Pro Network, showing the “Cisco”-branded
 3 products it sold, including 525 switches, routers, transceivers, and other “Cisco”-branded products
 4 to Dexon. 166 of these products were purchased by Dexon after Cisco filed the complaint in this
 5 matter. A true and correct copy of an excerpt of that spreadsheet reflecting Pro Network sales to
 6 Dexon is attached as Exhibit 9.

7 13. Cisco has uncovered [REDACTED] “Cisco”-branded products sold by
 8 Dexon through subpoenas Cisco issued to Dexon customers since the initiation of this litigation.

9 14. Dexon takes active steps to keep counterfeit products from being sent to Cisco's
 10 TAC, by instructing its customers to send the counterfeits to Dexon instead of Cisco. Attached
 11 hereto as Exhibit 10 is a true and correct copy of an email chain between Dexon and its customer
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]

15 15. Dexon's effort to involve its customers in the deception against Cisco evidences
 16 Dexon's knowledge of its counterfeiting activities and demonstrates that the counterfeits that Cisco
 17 has identified are only a fraction of the counterfeits sold by Dexon. As one example, attached
 18 hereto as Exhibit 11 is a true and correct copy of an email chain between Dexon and its customer
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]

22 16. Similarly, attached hereto as Exhibit 12 is a true and correct copy of an email chain
 23 between Dexon and its customer [REDACTED]
 24 [REDACTED]
 25 [REDACTED]
 26 [REDACTED]
 27 [REDACTED]
 28 [REDACTED]

1

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct.

4

Executed July 21, 2023, in San Francisco, California.

5

/s/ Richard J. Nelson

6

Richard J. Nelson

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28